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8 Attorneys for Petitioner Hector Miguel Gonzalez

9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA
11

12 HECTOR MIGUEL GONZALEZ,

13 Petitioner,

14 v.

15 BRIAN WILLIAMS, et al.,

16 Respondents.

Case No. 2:15-cv-00618-RFB-CWH

**UNOPPOSED MOTION FOR
EXTENSION OF TIME IN WHICH TO
FILE REPLY IN SUPPORT OF
PETITION**

(Third Request)

17
18 Petitioner Hector Gonzalez, by and through his attorney of record, Assistant
19 Federal Public Defender Jeremy C. Baron, hereby moves this Court for an extension
20 of time of sixty (60) days, from January 19, 2018, to and including March 20, 2018, in
21 which to file a reply in support of Mr. Gonzalez's petition. This motion is based upon
22 the attached points and authorities and all pleadings and papers on file herein.
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POINTS AND AUTHORITIES

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2 1. Mr. Gonzalez filed his pro se federal petition for a writ of habeas corpus
3 in this Court on or about January 16, 2015. ECF No. 10. The respondents filed a
4 motion to dismiss on June 20, 2016. ECF No. 13. The Court issued an order finding
5 certain of the claims to be unexhausted on March 31, 2017. ECF No. 20. The Court
6 appointed counsel on behalf of Mr. Gonzalez and ordered Mr. Gonzalez to either
7 abandon the unexhausted grounds, dismiss his petition, or seek a stay. *Id.* at 8.
8 Undersigned counsel filed a notice of representation on May 1, 2017 (ECF No. 21),
9 and Mr. Gonzalez filed a declaration that he intended to abandon his unexhausted
10 claims on May 30, 2017 (ECF No. 22). The respondents filed an answer on August
11 22, 2017. ECF No. 25. The current deadline for Mr. Gonzalez to file a reply in support
12 of his petition is January 19, 2018.

13 2. Undersigned counsel has been reviewing Mr. Gonzalez's file and the
14 respondents' answer in an effort to comply with the Court's deadline. However,
15 counsel respectfully suggests that additional time is necessary to properly prepare
16 Mr. Gonzalez's reply.

17 3. Many claims in Mr. Gonzalez's petition survived the respondents'
18 motion to dismiss, increasing the complexity of the reply. In addition, Mr. Gonzalez
19 filed a pro se petition in this case, and the Court did not require him to file a counseled
20 amended petition. As a result, the preparation of a reply in the instant case may
21 necessitate additional review and effort compared to a case in which a petitioner has
22 filed a detailed and thorough counseled amended petition.

23 4. The Office of the Federal Public Defender has recently assigned
24 undersigned counsel to a number of new cases. Undersigned counsel's preliminary
25 review of those new cases suggests that at least three of them involve clients who
26 have time remaining under the federal statute of limitations for habeas proceedings,

1 28 U.S.C. § 2244(d). Because of the legal significance of the statute of limitations,
2 and out of a desire to prepare, file, and serve complete and thorough amended
3 petitions in those cases before the expiration of the statute of limitations, undersigned
4 counsel has in recent weeks been prioritizing his review of the files in those cases.
5 Thus, additional time is necessary to prepare the reply in the instant case.

6 4. Undersigned counsel has had many professional obligations in recent
7 weeks, including, among others, an amended petition filed on November 6, 2017, in
8 *Matlean v. Williams*, Case No. 3:16-cv-00233-HDM-VPC (D. Nev.); an opposition to a
9 motion to dismiss filed on November 6, 2017, in *Castillo v. Baker*, Case No. 3:13-cv-
10 00704-LRH-VPC (D. Nev.), an opposition in which the client is asserting his actual
11 innocence of first-degree murder; a supplemental opening brief filed on November 9,
12 2017, in *LaPena v. Grigas*, Case No. 15-16154 (9th Cir.), a 40-year-old case in which
13 the Ninth Circuit granted a certificate of appealability regarding the client's actual
14 innocence within the meaning of *Herrera v. Collins*, 506 U.S. 390, 417 (1993), and
15 that required extensive review of multiple multi-week trials, evidentiary hearings,
16 trial court and appellate court pleadings, and other documents (counsel requested
17 leave to file this brief as an overlength brief on October 16, 2017, which the Ninth
18 Circuit denied; counsel filed the corrected brief on November 9, 2017); an application
19 for a certificate of appealability filed on November 16, 2017, in *Bynoe v. Baca*, Case
20 No. 17-17012 (9th Cir.); an opposition to a motion to dismiss filed on November 27,
21 2017, in *Bradford v. Baker*, Case No. 2:13-cv-01784-GMN-GWF (D. Nev.), an
22 opposition in which the client is asserting his actual innocence of first-degree murder;
23 a second amended petition filed on December 6, 2017, and motions for leave to
24 conduct discovery and for an evidentiary hearing filed on January 17, 2018, in *Sawyer*
25 *v. Baker*, Case No. 3:16-cv-00627-MMD-WGC (D. Nev.); a motion for leave to conduct
26 discovery filed on January 17, 2018, in *Howard v. Wickham*, Case No. 3:16-cv-00665-

1 HDM-VPC (D. Nev.); and various obligations in connection with discovery authorized
2 by the Court in *Slaughter v. Baker*, Case No. 3:16-cv-00721-RCJ-WGC (D. Nev.).

3 5. Undersigned counsel has many additional professional obligations in
4 the coming weeks, including, among others, an amended petition due on January 22,
5 2018, in *Esquivel v. Williams*, Case No. 2:17-cv-02227-RFB-PAL (D. Nev.); an
6 opposition to a motion to dismiss due on January 22, 2018, in *Matlean v. Williams*,
7 Case No. 3:16-cv-00233-HDM-VPC (D. Nev.); a second amended petition due on
8 January 28, 2018, in *Barragan v. Filson*, Case No. 3:17-cv-00453-LRH-VPC (D. Nev.);
9 an opening brief due on January 30, 2018, in *Banuelos v. Smith*, Case No. 17-164889
10 (9th Cir.); and a reply brief due on January 31, 2018, in *LaPena v. Grigas*, Case No.
11 15-16154 (9th Cir.).

12 6. Therefore, counsel seeks an additional sixty (60) days, up to and
13 including March 20, 2018, in which to file the reply in support of the petition. This
14 is undersigned counsel's third request for an extension of time in which to file Mr.
15 Gonzalez's reply.

16 6. On January 18, 2018, counsel contacted Deputy Attorney General
17 Natasha M. Gebrael and informed her of this request for an extension of time. As a
18 matter of professional courtesy, Ms. Gebrael had no objection to the request. Ms.
19 Gebrael's lack of objection should not be considered as a waiver of any procedural
20 defenses or statute of limitations challenges, or construed as agreeing with the
21 accuracy of the representations in this motion.

22 7. This motion is not filed for the purpose of delay, but in the interests of
23 justice, as well as in the interest of Mr. Gonzalez. Counsel for Mr. Gonzalez
24 respectfully requests that this Court grant this motion and order Mr. Gonzalez to file
25 the reply no later than March 20, 2018.
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1 DATED this 19th day of January, 2018.

2 Respectfully submitted,

3 RENE L. VALLADARES
4 Federal Public Defender

5 /s/ Jeremy C. Baron
6 JEREMY C. BARON
7 Assistant Federal Public Defender

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9 IT IS SO ORDERED:

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11 
12 RICHARD F. BOULWARE, II
13 United States District Court

14 Dated: February 7, 2018.
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on January 19, 2018, I electronically filed the foregoing
3 with the Clerk of the Court for the United States District Court, District of Nevada
4 by using the CM/ECF system.

5 Participants in the case who are registered CM/ECF users will be served by
6 the CM/ECF system and include: Natasha M. Gebrael.

7 I further certify that some of the participants in the case are not registered
8 CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage
9 pre-paid, or have dispatched it to a third party commercial carrier for delivery within
10 three calendar days, to the following non-CM/ECF participants:

11 Hector Miguel Gonzalez
12 No. 1055141
13 Southern Desert Correctional Center
14 P.O. Box 208
Indian Springs, NV 89070

15 /s/ Jessica Pillsbury
16 An Employee of the
17 Federal Public Defender
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